

REMARKS/ARGUMENTS

The Applicants originally submitted Claims 1-20 in the application. In previous responses, the Applicants amended Claims 1, 8, 21 and 24, canceled Claims 15-20 without prejudice or disclaimer and added Claims 21-26. In the present response, the Applicants have amended Claims 1, 5-6, 8 and 21. Support for the amendment can be found, for example, in the original specification on page 4, line 23, to page 6, line 2; and page 12, line 4, to page 13, line 2. Claims 1-14 and 21-26 are currently pending in the application.

I. Rejection of Claims 1, 2, 5 and 7 under 35 U.S.C. §103

The Examiner rejected Claims 1, 2, 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0041695 by Bordogna, *et al.*, in view of U.S. Patent No. 7,218,648 to Jackson. The Applicants respectfully disagree in view of amended independent Claim 1.

The Examiner asserts Bordogna and Jackson teach or suggest each element of previous Claim 1. Nevertheless, the Applicants fail to find where the cited combination of Bordogna and Jackson provides a *prima facie* case of obviousness of amended Claim 1. For example, the Applicants direct the Examiner to amended Claim 1 which now includes: the message to transmit is encoded in an Interpacket gap by replacing at least one of the plurality of symbols with a non-Idle symbol to form a modified Interpacket gap, such that the presence of the non-Idle symbol is part of the message and the modified Interpacket gap complies with a packet transmission standard.

Thus, the cited combination of Bordogna and Jackson fails to provide a *prima facie* case of obviousness of amended independent Claim 1. Accordingly, the Applicants respectfully request the Examiner to withdraw the §103(a) rejection of independent Claim 1 and Claims 2, 5 and 7 which depend thereon. Additionally, the Applicants respectfully request issuance of Claims 1, 2, 5 and 7.

II. Rejection of Claims 3 and 4 under 35 U.S.C. §103

The Examiner rejected Claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Jackson and in further view of U.S. Patent Application Publication No. 2003/0227947 by Shin, *et al.* The Applicants respectfully disagree.

As asserted above, the cited combination of Bordogna and Jackson does not provide a *prima facie* case of obviousness of amended independent Claim 1. Since Shin has not been cited to address features of Claim 1, Claims 3 and 4 are patentable over the above references, as applied by the Office Action, at least by their dependence on Claim 1.

III. Rejection of Claim 6 under 35 U.S.C. §103

The Examiner has rejected Claim 6 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Jackson, and further in view of U.S. Patent Application Publication No. 2003/0137975 to Song, *et al.* The Applicants respectfully disagree.

As asserted above, the cited combination of Bordogna and Jackson does not provide a *prima facie* case of obviousness of amended independent Claim 1. Since Song has not been cited to

address features of Claim 1, Claim 6 is patentable over the above references as applied by the Office Action, at least, by its dependence on Claim 1.

IV. Rejection of Claim 8 under 35 U.S.C. §103

The Examiner rejected Claim 8 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of U.S. Patent Application Publication No. 2003/0206559 by Trachewsky, *et al.* The Applicants respectfully disagree in view of amended independent Claim 8. More specifically, the Applicants fail to find where the cited combination of Bordogna and Trachewsky provides a *prima facie* case of obviousness of amended Claim 8 which now recites that the message is encoded in the information-carrying portion by adding at least one non-standard symbol, wherein the standard symbols are defined according to a packet transmission standard and the at least one non-standard symbol is classified as unused by the packet transmission standard. As such, the Applicants respectfully request the Examiner to allow issuance of amended independent Claim 8.

V. Rejection of Claims 9-14 under 35 U.S.C. §103

The Examiner has rejected dependent Claims 9-14 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Trachewsky, and further in view of: U.S. Patent Application Publication No. 2003/0235214 to Leroux, *et al.*, for Claims 9, 10 and 13; Leroux, and further in view of Shin for Claims 11 and 12; and Leroux, and further in view of Song for Claim 14. The Applicants respectfully disagree.

As asserted above, the Applicants fail to find where the cited combination of Bordogna and Trachewsky provides a *prima facie* case of obviousness of amended independent Claim 8. Since the other cited references have not been cited to address features of Claim 8, Claims 9 – 14 are patentable over the above references as applied by the Office Action, at least, by their dependence on Claim 8.

VI. Rejection of Claims 21-26 under 35 U.S.C. §103

The Examiner has rejected Claim 21 under 35 U.S.C. §103(a) as being unpatentable over Shin, in view of Jackson. Additionally, the Examiner has rejected Claims 22-26 under 35 U.S.C. §103(a) as being unpatentable over Shin and Jackson and in further view of U.S. Patent Application Publication No. 2002/0061012 to Thi, *et al.* The Applicants respectfully disagree in view of amended independent Claim 21. More specifically, the cited combination of portions of Shin and Jackson does not provide a *prima facie* case of obviousness of amended Claim 21 which now includes an encoder configured to: substitute at least one of the plurality of symbols decoded as an Idle symbol in the interpacket gap with a non-Idle symbol to form a modified interpacket gap, such that the presence of the non-Idle symbol is at least a portion of the message and the modified interpacket gap complies with the Ethernet standard. As such, the Applicants respectfully request the Examiner to allow issuance of amended independent Claim 21.

Thi has not been cited to address independent Claim 21 but to disclose the additional limitations of Claims 22-26. (See Examiner's Action, pages 12-14.) The addition of Thi to the combination of Shin and Jackson, therefore, does not appear to cure the above noted deficiencies in

view of amended Claim 21. The cited combination of Shin, Jackson and Thi, therefore, fails to provide a *prima facie* case of obviousness of amended independent Claim 21 and Claims 22-26 which depend thereon. The Applicants, therefore, respectfully request the Examiner to allow issuance of Claims 21-26.

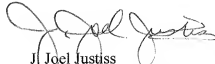
VII. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-14 and 21-26.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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